

Religious Liberty and Snakehandling

Michael Sean Winters | Feb. 18, 2014 Distinctly Catholic

Pastor Jamie Coots died the other day. Coots led a church I have never attended and starred in a reality show I have never watched. The focus of both church and show was the fact that Coots was a Bible-believing snake handler and, predictably, he did not die of anything we normally intend when we attribute a death to "natural causes." A rattlesnake bit him and he refused medical treatment. He died.

The U.S. Supreme Court will hold oral arguments in a few weeks in the Hobby Lobby and Conestoga Wood cases, both of which center on the extent to which religious liberty cannot be infringed by the government. In much of the Catholic discussion of the controversial contraception HHS mandate, some of the more zealous advocates of religious liberty have spoken as if they believe the right to freely practice one's religion is virtually unlimited and as if the HHS mandate represented a first-ever assault on our First Amendment rights. We have been told that the existence of "deeply held beliefs" is sufficient to immunize the faithful from the reach of the mandate.

Pastor Coots was breaking the law when he played with his snakes. Did he have a religious liberty right to do so? Is the law banning the keeping and handling of venomous animals unconstitutional? Does anyone doubt that his beliefs were "sincerely held"?

I do not mean to mock. I do mean to point out that much of the discussion about religious liberty was so obviously tied to a political and legal agenda, that people who should know better said some uncautious things. We all know that compliance with the mandate does not constitute illicit material cooperation with evil, but no one can say it because it will harm the lawsuits. We know, too, that at times the government does have a compelling interest that warrants an infringement of religious liberty rights and that while the provision of free contraception may not be a compelling state interest, equalizing the medical expenses of men and women certainly is.

Most importantly, and as I have warned repeatedly, reliance on the argument that our Catholic opposition to contraception is a deeply held belief, or a core belief, invites a mistaken understanding of conscience, one that is, I fear, all too easy for the courts to adopt in a modern liberal society. We may think of conscience as the voice of God, speaking through the Scriptures and tradition to inform the individual's conscience, but in our day and age, most people equate conscience with whim or, at least, can't tell the difference. As Americans, we accept the constitutional proposition that a person has a right to follow a misguided conscience. As Catholics, we believe that conscience must be informed before it is followed. That may be a tautology, a uniquely pre-modern tautology, but there it is.

Dignitatis Humanae, the Second Vatican Council's Decree on Religious Liberty, certainly would not cover Pastor Coots and his snakes. But, that Decree also has been stretched in ways that are not justified by the text. The text is balanced and, at the end of the day, does not resolve the tension between a negative conception of liberty at the heart of our constitutional system and the Church's understanding of liberty. Fr. John Courtney Murray, S.J., for all his many achievements, acknowledged that the text did not square the circle. We must discuss the issue of religious liberty but woe to him who discusses it breezily or with too much self-assurance.

The case of Pastor Coots raises a different right, one the Church denies but which many are beginning to champion, the right to die. Traditionally, we do not believe in our culture that people have a right to harm themselves, and so we forbid certain drugs, driving after drinking too much, and handling snakes. The proponents of euthanasia, who have made great progress in Europe, and the proponents of physician assisted suicide, which is now legal in three states (Oregon, Washington and Vermont) and likely legal in two others (Montana and New Mexico), should be asked what they think of Pastor Coots. I find their arguments for permitting someone to end their lives as unconvincing as Pastor Coots' decision to decline medical assistance.

The thing about religious liberty is that the issue can never be examined in the abstract, apart from the circumstances of the law the government is trying to enforce. It is obvious to me that our friends at the USCCB have not wanted to focus on that fact: They can read the polls and know that even a large majority of Catholics do not object to contraception. And, I wish the issue of religious liberty had been raised in a different context too. But, not for the first time, I suggest that instead of viewing the erosion of conscience rights as a slippery slope, that we focus our assertion of conscience rights on the issue of abortion, and assert our opposition to any government mandate to perform abortions at our Catholic hospitals, lest we be denied certain government programs or funding, on the nature of the act itself. Abortion is an act of violence in a way the purchasing of an insurance policy is not. Handling snakes easily, and predictably, becomes an act of violence.

These are not easy issues. The law is a complicated thing. What is clear, however, is that the Pastor Coots case raises the kinds of questions, albeit in a bizarre and extreme circumstance, that warrant reflection, the kind of reflection that has been absent from much of the discussion about the mandate. And, I readily confess, that my opposition to the mandate, based on the institutional integrity of our Catholic schools and hospitals, must wrestle with the institutional integrity of Pastor Coots' church to believe the Bible commands snake-handling. The nettlesome of the issues, however, is itself a sign of moral seriousness. The morally serious person is not the zealot for whom all moral calculations are easy. The morally serious person is she who recognizes the difficulties, the qualifications, the nuances, as well as the moral law. This nettlesomeness is the price we pay for being humans and it is, I believe, one of the guarantors of our being humane. Beware the people for whom such issues are cut and dried. They are not more principled than the rest of us, only more prideful.

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